

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Jerry Lamont Hubbard,	)	Civil Action No. 1:11-cv-133-RMG
	)	
Plaintiff,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
KinntinaFreeman and Michael Moutrie,	)	
	)	
Defendants.	)	
	)	
	)	

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Plaintiff brought this action pursuant to 42 U.S.C. § 1983. As a result, this matter was referred to a Magistrate Judge for pre-trial proceedings. The Magistrate Judge has made a report and recommendation that Plaintiff's motion to dismiss the action so that he may exhaust his administrative remedies be granted. (Dkt. No. 46). Defendants do not oppose the motion. (Dkt. No. 45). As stated below, this Court adopts the recommendation of the Magistrate Judge.

**Analysis**

The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and

Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

Here, Defendants do not appear to have expended great efforts or expense preparing for trial, as discovery has only recently commenced and no dispositive motions have been prepared. Additionally, Defendants do not oppose the motion to dismiss. Plaintiff has not demonstrated a lack of diligence in this matter, as he filed his motion to dismiss early in the case.

### **Conclusion**

Based on the above, Plaintiff's motion is **granted** and this action is dismissed without prejudice. (Dkt. No. 44). All other pending motions in this matter are rendered moot as a result of this order.

**AND IT IS SO ORDERED.**

  
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Richard Mark Gergel  
United States District Court Judge

April 25, 2011  
Charleston, South Carolina